

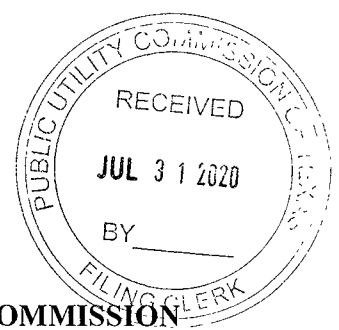


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DOCKET NO. 50422

APPLICATION OF JOHNSON WATER	§	PUBLIC UTILITY COMMISSION
SERVICE AND SP UTILITY	§	
COMPANY, INC. FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN BRAZORIA COUNTY	§	

**AGREED MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER APPROVING
SALE AND ALLOWING TRANSACTION TO PROCEED**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), Johnson Water Service and SP Utility Company, Inc. (collectively, Parties), and hereby submit this Joint Motion to Admit Evidence and Proposed Order Approving the Transaction. In support thereof, the Parties show the following:

I. BACKGROUND

On January 8, 2020, Johnson Water Service and SP Utility Company, Inc. (SP Utility) (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Brazoria County. Johnson Water Service seeks to sell its facilities and to transfer its water service area held under Certificate of Convenience and Necessity (CCN) No. 12004 to SP Utility. The requested sale and transfer includes approximately 28 acres and 44 connections. On March 23, 2020 and May 11, 2020, the Applicants filed supplemental information. On May 12, 2020 the applicants filed proof of notice.

On July 7, 2020, Order No. 7 was issued, giving the Parties a deadline of July 31, 2020 to file a joint motion to admit evidence and proposed notice of approval. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

The Parties request the entry of the following items into the record of this proceeding:

- (a) Application of Johnson Water Service and SP Utility Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Brazoria County including all attachments (filed on January 8, 2020, AIS Item No. 1);
- (b) Confidential Financial Documentation (filed on January 8, 2020, AIS Item No. 2);
- (c) SP Utility's Response to Order (filed on March 23, 2020, AIS Item No. 6);

- (d) Confidential Documents Requested for Correction (filed on March 23, 2020, AIS Item No. 7);
- (e) Commission Staff's Supplemental Recommendation on Administrative Completeness (filed on April 23, 2020, AIS Item No. 12);
- (f) SP Utility's Responses to Commission Staff's First Request for Information and associated confidential materials (filed on May 11, 2020, AIS No. 15 and 16, respectively);
- (g) SP Utility's Response to Commission Staff's Recommendation (filed on May 12, 2020, AIS Item No. 17);
- (h) Commission Staff's Recommendation on Sufficiency of Notice (filed on June 1, 2020, AIS Item No. 18);
- (i) Commission Staff's Recommendation on Approval of the Sale (filed on June 29, 2020, AIS Item No. 20);
- (j) Confidential Financial Attachment to Recommendation on Approval of Sale (filed on June 29, 2020, AIS Item No. 21).

III. PROPOSED ORDER APPROVING SALE AND ALLOWING PROPOSED TRANSACTION TO PROCEED

The attached Agreed Proposed Order Approving Sale and Allowing Proposed Transaction to Proceed would authorize the transfer to SP Utility all of Johnson Water Services facilities and water service area held under CCN number 12004, the cancellation of CCN number 12004, and all of the facilities and water service area will be transferred to SP Utility's CCN number 12978. The Parties request that the Commission approve the proposed order.

IV. CONCLUSION

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the Commission adopt the attached Proposed Notice of Approval.

Dated: July 31, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on July 31, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Robert Dakota Parish
Robert Dakota Parish

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APPLICATION OF JOHNSON WATER	§	PUBLIC UTILITY COMMISSION
SERVICE AND SP UTILITY	§	
COMPANY, INC. FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN BRAZORIA COUNTY	§	

**AGREED PROPOSED ORDER APPROVING SALE AND ALLOWING
TRANSACTION TO PROCEED**

This Order addresses the January 8, 2020 application of Johnson Water Service and SP Utility Company, Inc. (SP Utility)(collectively, Applicants) for sale, transfer, or merger of certificate rights in Brazoria County. Specifically, in the transaction: (1) SP Utility will acquire all of Johnson Water Service's facilities and water service area from Johnson Water Service's water certificate of convenience and necessity (CCN) number 12004, (2) CCN number 12004 will be cancelled; and (3) all of the facilities and water service area will be transferred to SP Utility's CCN number 12978. The area being transferred includes 28 acres and 44 connections. The administrative law judge (ALJ) grants that the transaction proposed in this application may proceed and be consummated.

I. Findings of Fact

The Commission makes the following finding of fact.

Applicant

1. Michael H. Johnson is an individual doing business as Johnson Water Service.
2. Johnson Water Service owns a public water system (PWS) Oleander Road Mobile Home Development registered with the Texas Commission on Environmental Quality (TCEQ) PWS number 0200158.
3. Johnson Water Service operates, maintains, and controls facilities that provide water service in Brazoria County under CCN number 12004.
4. SP Utility Company, Inc. is a domestic for-profit corporation registered with the Texas secretary of state on May 6, 2003, under filing number 0800200690.

Application

5. On January 8, 2020, Johnson Water Service and SP Utility filed the application at issue in this proceeding.
6. Applicant's filed supplemental information on March 23, 2020, and May 12, 2020.
7. In the application, the applicants seek approval of the following transactions: (a) SP Utility will acquire all of Johnson Water Service's facilities and water service area from Johnson Water Service's water certificate of convenience and necessity (CCN) number 12004, (b) CCN number 12004 will be cancelled; and (c) all of the facilities and water service area will be transferred to SP Utility's CCN number 12978.
8. The requested area is located approximately one mile west of Rosharon, Texas, and is generally bounded on the north County Road 967, on the east by Old Airline Road, on the south by County Road 59, and on the west by the County Road 967.
9. The requested area comprises approximately 28 acres and 44 current customers.
10. In Order No. 5 filed on May 5, 2020, the ALJ found the application administratively complete.

Notice

11. On May 12, 2020, SP Utility filed Affidavits of Notice to Current Customers, Neighboring Utilities and Affected Parties indicating that notice of application was mailed to the entities listed on the affidavits on April 28, 2020.
12. In Order No. 6, issued on June 2, 2020, the ALJ deemed the notice sufficient.

Evidentiary Record

13. On July 31, 2020, the parties filed an agreed motion to admit evidence.
- (k) In Order No. 8, issued on August ___, 2020, the ALJ admitted the following evidence into the record: (a) Parties Application (filed on January 8, 2020, AIS Item No. 1); (b) Confidential Financial Documentation (filed on January 8, 2020, AIS Item No. 2); (c) SP Utility's Response to Order (filed on March 23, 2020, AIS Item No. 6); (d) Confidential Documents Requested for Correction (filed on March 23, 2020, AIS Item No. 7); (e) Commission Staff's Supplemental Recommendation on Administrative Completeness (filed on April 23, 2020, AIS Item No. 12); (f) SP Utility's Responses

to Commission Staff's First Request for Information and associated confidential materials (filed on May 11, 2020, AIS No. 15 and 16, respectively); (g) SP Utility's Response to Commission Staff's Recommendation (filed on May 12, 2020, AIS Item No. 17); (h) Commission Staff's Recommendation on Sufficiency of Notice (filed on June 1, 2020, AIS Item No. 18); (i) Commission Staff's Recommendation on Approval of the Sale (filed on June 29, 2020, AIS Item No. 20); (j) Confidential Financial Attachment to Recommendation on Approval of Sale (filed on June 29, 2020, AIS Item No. 21).

System Compliance—Texas Water Code (TWC) § 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)

14. SP Utility has not been subject to any enforcement action by the Commission, TCEQ, the Texas Department of State Health Service, the Office of the Attorney General of Texas, or the Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.
15. SP Utility has one TCEQ violation from 2010 under TCEQ Docket No. 2010-0301-PWS-ETCEQ.
16. There is no evidence that SP Utility has a history of continuing mismanagement or misuses of revenues as utility service provider.
17. The applicants have demonstrated a compliance status that is adequate for approval of the application.

Adequacy of Existing Service—TWC § 13.301(c)(1); 16 TAC §§ 24.227(e)(1), (j)(5)(B)

18. Johnson Water Service has a public water system registered with Texas Commission on Environmental Quality (TCEQ) under PWS No. 0200158
19. Johnson Water Service does not have any unresolved violations listed in the TCEQ database.

Need for Additional Service—TWC §13.246(c)(2); 16 TAC §§ 24.227(e)(2), 24.239(j)(5)(C)

20. There are 44 existing connections in the requested area that are receiving water from Johnson Water Service's PWS number 0200158.
21. The application is to transfer only existing facilities, customers, and service area.
22. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(j)(5)(D)

23. Johnson Water Service and SP Utility are the only utilities affected by this transfer.

24. There will be no effect on the landowners as the area is currently certificated.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (d)(4), 24.239(g), (j)(5)(E)

25. SP Utility has a public water system, Savannah Plantation registered with TCEQ under PWS identification number 0200599.

26. Savannah Plantation has violations listed in the TCEQ database, however, SP Utility is continuing to work toward compliance with TCEQ.

27. SP Utility has a TCEQ-licensed operator who will be responsible for the operating of the water utility being transferred.

28. Applicants have sufficient capability to serve the customers and no additional construction is necessary.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (d)(6), 24.239(2), (j)(5)(G)

29. SP Utility meets one of the five leverage tests; (a) SP Utility has a debt to equity ratio that is less than one.

30. There are no projected operations and maintenance shortages in the first five years of operations in which SP Utility would need to cover

31. SP Utility has demonstrated the financial capability and stability to provide continuous and adequate service to the area being transferred.

Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(h)

32. There is no need to require SP Utility to provide a bond or other financial assurance to ensure continuous and adequate service.

Regionalization or Consolidation—TWC § 13.241(d); 16 TAC § 24.227(b)

33. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area proceeding.

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5), 24.239(j)(5)(F)26.

34. The area being transferred is currently being served by Johnson Water Service and therefore the feasibility of obtaining service from another adjacent retail public utility was not considered.

Environmental Integrity—TWC § 13.246(c)(7); 16 TAC §§ 24.227(d)(7), 24.239(j)(5)(H) and Effect on the Land—TWC § 13.246(c)(9); 16 TAC § 24.227(e)(9)

35. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

Improvement of Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(j)(5)(I)

36. SP Utility will continue to provide water service to the existing customers in the requested area.

Informal Disposition

37. More than 15 days have passed since the completion of notice provided in this docket.
38. No person filed a protest or motion to intervene.
39. Johnson Water Service, SP Utility and Commission Staff are the only parties to this proceeding.
40. No party requested a hearing and no hearing is needed.
41. Commission Staff recommended approval of the application.
42. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239.
2. After consideration of the factors in TWC § 13.246(c), SP Utility has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b).

3. Johnson Water Service and SP Utility have demonstrated that the sale of Johnson Water Service's water facilities and the transfer of the water service area held under CCN number 12004 from Johnson Water Service to SP Utility will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public. TWC §§ 13.301(d),(e).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The sale is approved and the transaction between applicants may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits have been addressed.
3. The applicants have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(o), if the transaction is not consummated within this period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
5. The applicants are advised that CCN number 12004 will not be canceled until the transaction is complete in accordance with the Commission's rules, at which time CCN number 12978 will take effect.
6. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff shall file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the ____ day of August 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE